

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CARMINE P. AMELIO; ALFONSO AMELIO;
AND PAUL AMELIO,

Plaintiffs,

-against-

FISCHER & BURSTEIN, P.C.; HARRY H.
BURSTEIN; AND ADRIANA RODRIGUEZ,

Defendants.

20-CV-6277 (LLS)

ORDER

LOUIS L. STANTON, United States District Judge:

By order dated March 1, 2021, the Court dismissed this action for lack of subject-matter jurisdiction, under Fed. R. Civ. P. 12(h)(3). The Court entered judgment on March 2, 2021. On April 30, 2021, the Court received from Plaintiff Carmine Amelio a motion for an extension of time to file a notice of appeal,¹ along with a notice of appeal. (ECF 10-11.)

Rule 4(a)(1)(A) of the Federal Rules of Appellate Procedure requires a notice of appeal in a civil case to be filed within thirty days of entry of judgment. *See* Fed. R. App. P. 4(a)(1)(A). The district court may extend the time to file a notice of appeal, however, if a party moves for an extension of time within thirty days of the expiration of the time to file notice of appeal, and if the moving party shows excusable neglect or good cause. *See* Fed. R. App. P. 4(a)(5)(A) (allows an extension of thirty days, i.e. until May 3 2021²).

¹ The motion for an extension of time is signed only by Plaintiff Carmine Amelio.

² The district court's authority to extend the time to file a notice of appeal in this case expired 60 days after entry of the judgment, on May 1, 2021, which was a Saturday. Under Rule 6(a) of the Federal Rules of Civil Procedure, because the deadline for Plaintiffs to file a motion for an extension to file a notice of appeal fell on a Saturday, Plaintiffs actually had until the following Monday, May 3, 2021, to file the motion. *See also* Fed. R. App. P. 26(a).

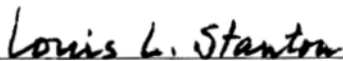
Plaintiff Carmine Amelio filed the motion for an extension of time within thirty days of the expiration of the time to file a notice of appeal. He asserts that he was unable to file a timely notice of appeal because of issues relating to the COVID-19 pandemic. The Court grants the motion for an extension of time.

CONCLUSION

The Clerk of Court is directed to mail a copy of this order to Plaintiffs and note service on the docket. The Court grants Plaintiff Carmine Amelio's motion for an extension of time to appeal (ECF No. 10). The notice of appeal Plaintiffs filed on April 30, 2021 was timely filed.

SO ORDERED.

Dated: May 3, 2021
New York, New York



Louis L. Stanton
U.S.D.J.